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**DEPARTMENT OF AGRICULTURE**

**Food and Nutrition Service**

**7 CFR Part 250**

**[FNS-2014-0040]**

**RIN 0584-AE29**

**Requirements for the Distribution and Control of Donated Foods and the Emergency Food**

**Assistance Program: Implementation of the Agricultural Act of 2014**

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to the final rule published in the Federal Register on April 19, 2016, “Requirements for the Distribution and Control of Donated Foods – The Emergency Food Assistance Program: Implementation of the Agricultural Act of 2014.”

**DATES:** This document is effective [insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Carolyn Smalkowski, Program Analyst, Policy Branch, Food Distribution Division, Food and Nutrition Service, 3101 Park Center Drive, Room 500, Alexandria, Virginia 22302, or by telephone (703) 305-2680.

**SUPPLEMENTARY INFORMATION:** The Food and Nutrition Service published a final rule in the Federal Register, 81 FR 23086, on April 19, 2016, to amend Food Distribution regulations

at 7 CFR part 250 to revise and clarify requirements to ensure that USDA donated foods are distributed, stored and managed in the safest, most efficient and cost-effective manner, at State and recipient agency levels. This final rule correction makes a technical correction in 7 CFR 250.30(c)(2) by correcting the prior amendatory instructions to allow the paragraph at (c)(2) to publish in the CFR in lieu of a “reserved” paragraph. All other information in the final rule remains unchanged.

### **List of Subjects in 7 CFR Part 250**

Disaster assistance, Food assistance programs, Grant programs—social programs, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 250 is corrected by making the following correcting amendments:

### **PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION**

1. The authority citation for part 250 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 612c, 612c note, 1431, 1431b, 1431e, 1431 note, 1446a–1, 1859, 2014, 2025; 15 U.S.C. 713c; 22 U.S.C. 1922; 42 U.S.C. 1751, 1755, 1758, 1760, 1761, 1762a, 1766, 3030a, 5179, 5180.

2. In §250.30, add paragraph (c)(2) to read as follows:

**§250.30 State processing of donated foods.**

\* \* \* \* \*

(c) \* \* \*

(2) These criteria will be reviewed by the appropriate FNS Regional Office during the management evaluation review of the distributing agency. Distributing agencies and subdistributing agencies which enter into contracts on behalf of recipient agencies but which do not limit the types of end products which can be sold or the number of processors which can sell end products within the State are not required to follow the selection criteria. In addition to utilizing these selection criteria, when a contracting agency enters into a contract both for the processing of donated food and the purchase of the end products produced from the donated food, the procurement standards set forth in 2 CFR part 200, subpart D and Appendix II, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards and USDA implementing regulations at 2 CFR part 400 and part 416 must be followed. Recipient agencies which purchase end products produced under Statewide agreements are also required to comply with 2 CFR part 200, subpart D and USDA implementing regulations at 2 CFR part 400 and part 416. Contracting agencies shall not enter into contracts with processors which cannot demonstrate the ability to meet the terms and conditions of the regulations and the distributing agency agreements; furnish prior to the delivery of any donated foods for processing, a performance bond, an irrevocable letter of credit or an escrow account in an amount sufficient to protect the contract value of donated food on hand and on order; demonstrate the ability to distribute end products to eligible recipient agencies; provide a satisfactory record of integrity, business ethics and performance and provide adequate storage.

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Dated: October 24, 2016.

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Telora T. Dean

Acting Administrator

Food and Nutrition Service

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